

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

RONALD C. LEWIS
TX-1329836-G

DOCKETED COMPLAINT NO. 04-091,
05-029, 06-146 & 07-028

AGREED FINAL ORDER

On this the 11th day of May, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Ronald C. Lewis, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Ronald C. Lewis is a State Certified General Real Estate Appraiser, holds certification number TX-1329836-G, and has been certified by the Board since December 18th, 2000.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ' 1103 et. seq. (Vernon 2005) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE ' 153, 155, 157 (West 2005) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about April 8th, 2002, the Respondent appraised the subject property located at 4711 Russett, Sugarland, Texas 77479-5424 ("the Russett property").
4. On or about October 29th, 2004, Jack McComb, an investigator with the Board, filed a staff-initiated complaint with the Board based upon information received from Marianne E. Sullivan, Vice President of Single-family Mortgage Business for Fannie Mae that the Respondent had produced an appraisal report for the Russett property that did not comply with the Uniform Standards of Professional Appraisal Practice ("USPAP").
5. On or about February 12th, 2001, the Respondent appraised the subject property located at 2305 Truxillo Street, Texas 77004 ("the Truxillo property").
6. On or about July 7th, 2004, Jack McComb, an investigator with the Board, filed a staff-initiated complaint with the Board based upon information received from Robert W. Sanborn, Vice President of Single-family Business for Fannie Mae that the Respondent had produced an appraisal report for the Truxillo property that did not comply with the Uniform Standards of Professional Appraisal Practice ("USPAP").

7. On or about May, 2006, the Respondent appraised the subject property located at 35 Philbrook Way, Spring, Texas 77328 ("the Philbrook property").

8. On or about May, 2006, in accordance with TEX. OCC. CODE ' 1103.451, TALCB received a consumer complaint involving a real estate appraisal performed by Respondent. The complaint related to a real property appraisal performed by Respondent on 35 Philbrook Way, Spring, Texas 77328. The complaint alleged violations of state law and Board rules.

9. On or about July 28th, 2006, the Respondent appraised the subject property located at 939 Kirby Drive, Houston, Texas 77019-1515 ("the Kirby property").

10. On or about October 2nd, 2006, in accordance with TEX. OCC. CODE ' 1103.451, TALCB received a consumer complaint involving a real estate appraisal performed by Respondent. The complaint related to a real property appraisal performed by Respondent on the property located at: 939 Kirby Drive, Houston, Texas 77019-1515 ("the Kirby property") and the complaint alleged deficiencies in the reporting requirements dictated by the Uniform Standards of professional Appraisal Practice.

11. On or about October 29th, 2004 with respect to the Russett property, October 15th and 23rd, 2004 with respect to the Truxillo property, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. ' 2001, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by both Complainants. Respondent=s responses were received.

12. On or about August 4th, 2006 with respect to the Philbrook property, and November 1st and November 14th, 2006 with respect to the Kirby property, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. ' 2001, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by both Complainants. Although ultimately received in December, 2006, Respondent=s responses to the Philbrook and Kirby complaints were not timely sent to the Board.

13. The Enforcement Division has concluded that the Respondent's appraisal report for the Russett property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a) USPAP Standards 1-2(e)(i) & 2-2(b)(iii). Respondent did not adequately identify and report the site description. Respondent's report indicates incorrect square footage.
- b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii). Respondent failed to adequately identify and report improvement(s) description. Respondent made a serious and significant error in the living area square feet calculations and reported more square footage than the property actually has. His living area calculations

erroneously included attic space and open area above the living room. His floor plan drawing of the second floor is inaccurate and misrepresents the second floor.

- c) USPAP Standards 1-4(b)(i) & 2-2(b)(ix). Respondent used an inappropriate method or technique to develop an opinion of the subject property's site value. Respondent provided no sales data in his work file to support his land value conclusions.
- d) USPAP Standards 1-4(b)(iii) & 2-2(b)(ix). Respondent did not collect, verify, analyze and reconcile accrued depreciations. Respondent indicates the subject property has an effective age of 0 and uses 0% depreciation. However, the subject is actually 3 years old and should have some physical depreciation. Moreover, even though he indicated 0% depreciation, Respondent made a deduction of 2% (\$5,394) in his cost approach analysis.
- e) USPAP Standards 1-1(a) & 1-4(b). Respondent did not correctly employ recognized methods and techniques. Since Respondent used an inaccurate living area size, his cost approach is not credible and significantly inflated.
- f) USPAP Standards 1-4(a) & 2-2(b)(ix). Respondent failed to adequately collect, verify, analyze and reconcile comparable sales data. Respondent used sales that were not the most similar to the subject property. Additionally, due to his erroneous calculation of the subject property's living area, Respondent selected erroneous comparable sales. Other dissimilar characteristics of the comparable sales chosen by Respondent include sale #1's presence in a gated subdivision that has frontage on a man made lake and sale #2's superior quality and location on a greenbelt. Finally, sales #3 and #4's square footage was inaccurately reported.
- g) USPAP Standards 1-1(a) & 1-4(a). Respondent incorrectly employed recognized methods and techniques. Respondent failed to make adequate or any adjustments to reflect differences between the comparables and the subject. These errors included, failing to correctly adjust for the 3 car garages existing on sales #3 and 4, failing to make appropriate age adjustments and the fact that sale #1 was located in a superior gated community.
- h) USPAP Standards 1-5(a) & 2-2(b)(ix). Respondent did not analyze any current agreement of sale, option or listing of the property being appraised. Respondent's report is internally inconsistent as to whether there was any contract for sale on the subject property.
- i) USPAP Standard 1-1(a). Respondent failed to correctly employ recognized methods and techniques to produce a credible appraisal. His use of a comparable sale from a gated subdivision, incorrect living area size for the

comparables, and miscalculation of the subject's living area all resulted in a report that was not credible.

- j) USPAP Standard 1-1(b). Respondent committed a substantial error of omission or commission that significantly affected his appraisal. His errors regarding living area calculations and misreporting the comparables living area resulted in an appraisal report that significantly inflated the subject property's market value.
- k) USPAP Standard 1-1(c). Respondent rendered appraisal services that were careless and negligent.
- l) USPAP Standard 2-1(a). Respondent did not clearly and accurately set forth the appraisal in a manner that will not be misleading. His report was misleading to readers. The cost approach was inflated and his sales comparison approach utilized inappropriate sales comparables.

14. The Enforcement Division concluded that the Respondent's appraisal report for the Truxillo property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a) USPAP Standards 1-2(e)(i) & 2-2(b)(iii). Respondent failed to adequately identify and report improvement(s) description. His appraisal is internally inconsistent with regard to whether the property has been remodeled, has suffered major physical depreciation, or is merely in average condition.
- b) USPAP Standards 1-4(b)(i) & 2-2(b)(ix). Respondent has not used an appropriate method or technique to develop an opinion of the subject property's site value. Respondent failed to provide any lot sales data in his work file to support his land value estimate of \$55,000.00 and the assessed value in 2001 was only \$15,800.00.
- c) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix). Respondent failed to collect, verify, analyze and reconcile the cost new of improvements. Respondent significantly inflated the cost per square foot (\$125.50). Such a cost figure is extremely out of line with Marshall and Swift, which indicates \$61.84 per square foot.
- d) USPAP Standards 1-4(b)(iii) & 2-2(b)(ix). Respondent failed to verify, analyze and reconcile accrued depreciations. Although Respondent indicated the effective age was 25 years, he calculated the accrued depreciation based upon an effective age of 20 years.
- e) USPAP Standards 1-1(a) & 1-4(b). Respondent incorrectly employed recognized methods and techniques. Respondent incorrectly calculated accrued depreciation, did not support his estimate of the subject's land value and used an inflated cost per square foot that was not supported by the source stated.

- f) USPAP Standards 1-4(a) & 2-2(b)(ix). Respondent did not adequately collect, verify, analyze and reconcile comparable sales data. The comparable sales chosen were not comparable to the subject property and should not have been used. The comparables were unlike the subject because they had been remodeled, had central air and heat, had garage parking, and at least 2 of them were from outside the subject's neighborhood. More comparable sales occurring within the 6 months prior to the appraisal date were within the subject's immediate subdivision and should have been used instead of the ones selected by Respondent.
- g) USPAP Standards 1-1(a) & 1-4(a). Respondent utilized sales from outside the subject's neighborhood and sales that were superior to the subject in remodeling and amenities. Additionally, the adjustments Respondent made for the subject's lack of central air and hearing and living area square footage differences were too low.
- h) USPAP Standards 1-5(a) & 2-2(b)(ix). Respondent failed to analyze the current agreement of sale. Furthermore, Respondent failed to report and analyze a current listing of the subject property contained in his own work file. This listing was significantly different (\$61,000.00) than the appraised value in Respondent's report, but he made no commentary regarding this noteworthy difference.
- i) USPAP Standards 1-5(b) & 2-2(b)(ix). Respondent failed to analyze any prior sales. Respondent's report is internally inconsistent, claiming at one point that there were no sales of the subject during the past year, but later indicating there had been a distressed sale in November, 2001. This data was not accurate and misled users of the report. A sale of the property did occur approximately 6 days prior to the date of Respondent's appraisal, but Respondent failed to analyze and report this sale.
- j) USPAP Standard 1-1(a). Respondent failed to correctly employ recognized methods and techniques to produce a credible appraisal. Respondent used comparable sales from outside the neighborhood and sales that were not similar to the subject due to remodeling. More similar comparable sales existed in the subject property's immediate neighborhood, but were not used. Because of these problems Respondent produced a report that was not credible.
- k) USPAP Standard 1-1(b). Respondent committed substantial errors of omission or commission that significantly affected the appraisal. Respondent failed to accurately report a prior sale of the subject and failed to accurately report the condition of the subject improvements. These errors significantly affected his appraisal of the subject property.

- I) USPAP Standard 2-1(a). Respondent's report does not clearly and accurately set forth the appraisal in a manner that will not be misleading. Respondent's cost approach was inflated, the sales comparison approached relied on inappropriate sales comparables and Respondent failed to disclose both a prior sale and a current listing.

15. The Enforcement Division concluded that the Respondent's appraisal report for the Philbrook property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a. USPAP Standards 1-3(b) & 2-2(b)(ix). Respondent failed to provide a summary statement of his supporting rationale for his determination of the Philbrook property's highest and best use.
- b. USPAP Standards 1-4(b)(i) & 2-2(b)(ix). Respondent has not used an appropriate method or technique to develop an opinion of the subject property's site value. Respondent failed to provide any lot sales data to support his land value estimate.
- c. USPAP Standards 1-4(b)(ii) & 2-2(b)(ix). Respondent failed to collect, verify, analyze and reconcile the cost new of improvements. Respondent significantly inflated the cost per square foot (\$175.00). This cost figure is out of line with Marshall and Swift data.
- d. USPAP Standards 1-1(a) & 1-4(b). Respondent incorrectly employed recognized methods and techniques. Respondent did not support his estimate of the subject's land value.
- e. USPAP Standards 1-4(a) & 2-2(b)(ix). Respondent did not adequately collect, verify, analyze and reconcile comparable sales data. The comparable sales chosen were not comparable to the subject property and should not have been used.
- f. USPAP Standards 1-5(a) & 2-2(b)(ix). Respondent failed to analyze the current agreement of sale and report and analyze seller concessions and make any appropriate adjustments for such concessions.
- g. USPAP Standard 1-1(a). Respondent failed to correctly employ recognized methods and techniques to produce a credible appraisal. Respondent used sales that were not similar to the subject due to variations in lot characteristics, site location differences and square footage differences. More similar comparable sales existed in the subject property's immediate neighborhood that should have been used but were not. Because of these problems Respondent produced a report that was not credible.
- h. USPAP Standard 1-1(b). Respondent committed substantial errors of

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omission or commission that significantly affected the appraisal. Specifically, Respondent erroneously measured the dimensions of the Philbrook property's house, produced an erroneous sketch of the floor plan and made erroneous square footage determinations. These errors significantly affected his appraisal of the subject property, including the selection of comparable sales that were not similar in square footage.

i. USPAP Standard 2-1(a). Respondent's report does not clearly and accurately set forth the appraisal in a manner that will not be misleading.

16. The Enforcement Division concluded that the Respondent's appraisal report for the Kirby property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

a. USPAP Standards 1-2(e)(i) and 2-2(b)(iii). Respondent failed to adequately identify the Kirby property's site description. The Kirby property sits on a significant Houston thoroughfare and this attribute should have been discussed, but was not. Respondent also failed to adequately discuss and analyze the Kirby property's physical attributes, namely the recent repairs and updates made to the property.

b. USPAP Standards 1-3(b) & 2-2(b)(ix). Respondent failed to provide a summary statement of his supporting rationale for his determination of the Kirby property's highest and best use.

c. USPAP Standards 1-4(b)(ii) & 2-2(b)(viii). Respondent failed to collect, verify, analyze and reconcile the cost new of improvements. Respondent significantly inflated the cost per square foot (\$245.00). This cost figure is extremely out of line with Marshall and Swift data.

d. USPAP Standards 1-4(b)(i) & 2-2(b)(viii). Respondent has not used an appropriate method or technique to develop an opinion of the subject property's site value. Respondent failed to use appropriate comparable lot sales in his report which resulted in a skewed analysis of the Kirby property's lot value.

e. USPAP Standards 1-1(a) & 1-4(b). Respondent incorrectly employed recognized methods and techniques. Respondent failed to use appropriate comparable lot sales in his report which resulted in a skewed analysis of the Kirby property's lot value.

f. USPAP Standards 1-4(a) & 2-2(b)(viii). Respondent did not adequately collect, verify, analyze and reconcile comparable sales data. The comparable sales chosen were not comparable to the subject property and should not have been used.

g. USPAP Standard 1-5(b) & 2-2(b)(viii). Respondent failed to analyze the prior sales history of the Kirby property and this failure materially impacted the accuracy of the appraisal report on the Kirby property.

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h. USPAP Standard 1-1(a). Respondent failed to correctly employ recognized methods and techniques to produce a credible appraisal. Respondent used sales that were not similar to the subject due to variations in lot characteristics, site location differences and square footage differences. More similar comparable sales existed in the subject property's immediate neighborhood that should have been used but were not. Because of these problems Respondent produced a report that was not credible.

i. USPAP Standard 1-1(b). Respondent committed substantial errors of omission or commission that significantly affected the appraisal. Specifically, Respondent failed to analyze the prior sales history of the Kirby property, failed to analyze seller concessions, and failed to evaluate seller repair allowances. These errors significantly affected his appraisal of the subject property, including the selection of comparable sales.

j. USPAP Standard 2-1(a). Respondent's report does not clearly and accurately set forth the appraisal in a manner that will not be misleading.

17. The Enforcement Division concluded that with respect to the Russett, Truxillo, Philbrook and Kirby properties that Respondent violated 22 TEX. ADMIN. CODE ' ' 153.20(a)(3) and 155.1 of the Rules of the Board by failing to conform to USPAP in effect at the time of the appraisal reports. The Enforcement Division also concluded that with respect to the Philbrook and Kirby properties Respondent violated TEX. OCC. CODE § 1103.405 by failing to conform to USPAP in effect at the time of the appraisal reports.

18. The Enforcement Division concluded that with respect to the Russett, Truxillo, Philbrook and Kirby properties the Respondent violated 22 TEX. ADMIN. CODE ' 153.20(a)(9)¹ of the Rules of the Board by making material misrepresentations or omissions of material facts in his appraisal reports.

19. The Enforcement Division concluded that with respect to the Philbrook and Kirby complaints, Respondent violated 22 TEX. ADMIN. CODE ' ' 153.20(a)(2) and 153.22 because he failed to answer inquiries and provide certain documents (i.e. his appraisal reports, work files, written response etc.) related to the Philbrook property and Kirby property complaints within 20 days of notice despite multiple written requests that he promptly do so as required by 22 TEX. ADMIN. CODE ' 153.22. While Respondent ultimately provided the requested documentation, several months transpired before this material was provided to the Board.

¹ Due to non-substantive renumbering changes that took effect April 1st, 2001, this section was previously codified at 22 TEX. ADMIN. CODE § 153.20(a)(8).

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE ' 1103 et. seq. (Vernon 2005).
2. Respondent violated the following Rules of USPAP as prohibited by 22 TEX. ADMIN. CODE ' 153.20(a)(3) and 155.1: USPAP Standards: 1-2(e)(i) & 2-2(b)(iii), 1-4(b)(i) & 2-2(b)(ix), 1-4(b)(ii) & 2-2(b)(ix), 1-4(b)(iii) & 2-2(b)(ix), 1-1(a) & 1-4(b), 1-4(a) & 2-2(b)(ix), 1-1(a) & 1-4(a), 1-5(a) & 2-2(b)(ix), 1-5(b) & 2-2(b)(ix), 1-1(a), 1-1(b), 1-1(c), 2-1(a), 1-3(b) & 2-2(b)(ix), 1-3(b) & 2-2(b)(ix), 1-4(b)(i) & 2-2(b)(viii), 1-4(b)(ii) & 2-2(b)(viii), 1-1(a) & 1-4(b), 1-4(a) & 2-2(b)(viii), and, 1-5(b) & 2-2(b)(viii).
3. Respondent violated 22 TEX. OCC. CODE § 1103.405.
4. Respondent violated 22 TEX. ADMIN. CODE ' 153.20(a)(9).
5. Respondent violated 22 TEX. ADMIN. CODE ' 153.20(a)(2) and 153.22.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent Ronald C. Lewis' certification (TX-1329836-G) is hereby **REVOKED** with this revocation being **FULLY PROBATED** for a period of 2.5 years, subject to the following terms and conditions:

- a) During the entire 2.5 year probation period Respondent shall submit to the Board every three months an appraisal experience log on a form prescribed by the Board. The log shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate;
 - i. At the Board's request, Respondent shall provide access to his work files and reports noted in the log;
- b) Respondent's certification shall be suspended during the first month of the two year and six month probation period, during which time he shall not conduct any real estate appraisal activities;
- c) Respondent shall not sponsor any appraiser trainees during the entire 2.5 year probation period;
- d) Respondent shall pay to the Board an administrative penalty of \$2,000.00;
- e) Respondent shall attend and complete the following courses after obtaining approval in writing for the specific course from the Board's Enforcement Division:

- i. Attend and complete a minimum, 15 classroom-hour course in USPAP;
 - ii. Attend and complete a minimum, 30 classroom-hour course in the Sales Comparison Approach;
 - iii. Attend and complete a minimum, 15 classroom-hour course in Land Valuation;
 - iv. Attend and complete a minimum, 15 classroom-hour course in Highest & Best Use;
 - v. Attend and complete a minimum, 30 classroom-hour course in Residential Case Studies;
- f) Respondent shall timely remit payment of the administrative penalty, and timely complete all of the remedial coursework and other conditions required in this Order.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order. Failure to pay the administrative penalty within the time allotted shall result in termination of Respondent's probation and the **IMMEDIATE REVOCATION** of Respondent's certification pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

Failure to timely submit the required appraisal experience log on a form prescribed by the Board shall result in termination of Respondent's probation and the **IMMEDIATE REVOCATION** of Respondent's certification pursuant to notice to Respondent from the Board indicating that Respondent has not submitted the required appraisal experience log.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. All classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure.

Failure to complete the education required by this Agreed Final Order within the time allotted shall result in termination of Respondent's probation and the **IMMEDIATE REVOCATION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the educational requirements of this Agreed Final Order.

ANY REVOCATION OF RESPONDENT'S PROBATION shall not be based upon real estate appraisal reports performed prior to February 6th, 2007 regardless of whether those complaints come to the Board's attention after the execution of this Agreed Final Order. However, should violations of the Uniform Standards of Professional Appraisal Practice, Board rules or other applicable state law occur in connection with real estate appraisal activities occurring after February 6th, 2007, any such violations may serve as the basis for revocation of Respondent's probation and the revocation of his certification.

ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such revocation by certified mail, return receipt requested, to the last known address as provided to the Board.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

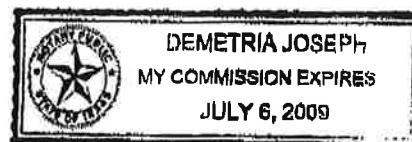
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 9th day of FEBRUARY, 2007.


RONALD C. LEWIS

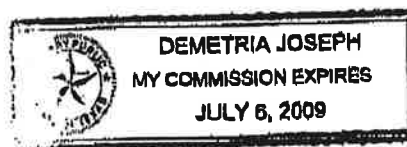

SADIYAH EVANGELISTA,
ATTORNEY FOR RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 9th day of February, 2007, by RONALD C. LEWIS, to certify which, witness my hand and official seal.



Demetria Joseph
Notary Public Signature

Demetria Joseph
Notary Public's Printed Name



Signed by the Commissioner this 16th day of May, 2007.

Wayne Thorburn
Wayne Thorburn, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 11th day of May, 2007.

LARRY KOKEL
Shirley Ward, Chairperson
Texas Appraiser Licensing and Certification Board